

Before the
Federal Communications Commission
Washington, D.C. 20554

DEC 18 2002

In the matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(Bridgeton and Elmer, New Jersey)) MM Docket No. 02-26
) RM-10362
)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 13, 2002

Released: December 16, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a February 8, 2002, *Notice of Proposed Rule Making*¹ issued at the request of Cohanzick Broadcasting Corp. ("Cohanzick"), licensee of Station WSNJ-FM, Bridgeton, New Jersey. Cohanzick proposed to reallocate Channel 299B from Bridgeton to Elmer, New Jersey, as that community's first local transmission service. During the comment period, Cohanzick and New Jersey Radio Partners, LLC ("NJRP") jointly filed comments amending the original proposal and abandoning the Elmer reallocation. They now propose to substitute Channel 300A for Channel 299B at Bridgeton and reallocate Channel 300A from Bridgeton to Pennsauken, New Jersey, as the community's first local aural transmission service, in lieu of the original proposal to reallocate Channel 299B from Bridgeton to Elmer, New Jersey. For the reasons set forth below, we dismiss the Cohanzick petition and terminate this proceeding.

2. Cohanzick and NJRP argue that the Commission should entertain the amended proposal based on "changed circumstances." We decline to do so within the context of this proceeding. After the filing of the petition for rulemaking, Cohanzick and NJRP entered into an agreement for the sale of WSNJ-FM. The Pennsauken reallocation is a condition of closing under the agreement. Thus, the reallocation is based on the voluntary business decisions of Cohanzick and NJRP. The assignment application was filed more than one month prior to the release of the *Notice*.² Cohanzick and NJRP could have sought to revise the initial Elmer petition to the release of the *Notice*, but did not do so. In this instance, we released a *Notice of Proposed Rule Making* setting forth a proposal that Cohanzick no longer had an intention to implement. In these circumstances, we will dismiss the original petition, terminate this proceeding and initiate a new docket seeking comment on the new proposal.³ A *Notice of Proposed Rule Making* in the new docket will be issued simultaneously with this dismissal. Cohanzick and NJRP's revised rulemaking proposal is substantially different from the original petition. In fairness to any interested parties, we will afford an opportunity to file comments and counterproposals in a new proceeding.

3. Accordingly, IT IS ORDERED That the petition for rulemaking filed by Cohanzick

¹ See *Bridgeton and Elmer, New Jersey*, 17 FCC Rcd 2232 (2002) ("Notice").

² See File No. BALH-20020102AAN.

³ See *Taccoa, Sugar Hill and Lawrenceville, GA*, 16 FCC Rcd 21191 (2001).

Broadcasting Corp. proposing to reallocate Channel 299B from Bridgeton to Elmer, New Jersey, **IS DISMISSED**.

4. IT IS FURTHER ORDERED That this proceeding **IS TERMINATED**

5. For further information concerning the above, please contact Victoria M. McCauley at (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau